

IN THE DISTRICT COURT OF THE UNITED STATES
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

CURTIS JEROME BROWN,)	CIVIL ACTION NO.: 2:05-1658-DCN
)	CRIMINAL NO.: 2:94-22
Petitioner,)	
vs.)	
)	<u>O R D E R</u>
UNITED STATES OF AMERICA,)	
)	
Respondent..)	

BACKGROUND

On December 1, 1993, Curtis Jerome Brown (“Petitioner”) was arrested along with three co-defendants. On that same day, Brown made his initial appearance and was appointed counsel.

On January 11, 1994, Brown was indicted by the federal grand jury for violations of Title 18, United States Code, Sections 371, 924(a)(2), and 922(g)(1). On April 21, 1994, Brown pled guilty before the undersigned.

On August 19, 1994, petitioner was sentenced to a term of 12 months imprisonment to be suspended on a five year term of probation. According to the records of the United States Probation Office, Brown was removed from supervision on September 3, 1996, due to his arrest, conviction and incarceration on state charges.

On July 8, 2005, petitioner filed the instant motion in the federal court pursuant to Title 28, United States Code, Section 2255.

ANALYSIS

Petitioner contends in his "memorandum" that he is still bound by his federal probation and that his probation has never been terminated. Additionally, Brown alleges that he has been arrested and is being held on unlawful warrants and with no probable cause.

The government contends that the federal judicial system no longer has jurisdiction over Brown's motion. Petitioner has served both his prison sentence and term of probation. Brown does not have any pending federal charges nor is he currently incarcerated or on any supervised release and/or probation for any federal crimes.

The government conceded that Brown is incarcerated at the Broad River Correctional facility in Columbia, South Carolina. However, Brown is serving a 60 year sentence on a state conviction for kidnapping. Brown has filed his claim in the wrong court. Because Brown is in the custody of the State of South Carolina, this court no longer has jurisdiction and Brown should file for relief in state court.

Therefore, petitioner's instant motion to vacate, set aside, or correct his sentence is **DENIED**.

AND IT IS SO ORDERED.



David C. Norton
United States District Judge

August 11, 2005
Charleston, South Carolina